

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

K2M DESIGN, INC. c/o Scott Maloney, CEO,

Plaintiff,

-against-

PETER K. SCHMIDT, GENE LIM, and
FILMWEST GLOBAL PARTNERSHIP, LLC,

Defendants.

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1:22-cv-03069 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On April 23, 2024, the Court issued an Order directing the parties to advise the Court of (1) Plaintiff's intent to proceed as to its fraud claim against Defendant Gene Lim ("Lim"), the sole remaining claim in this case; and (2) whether the parties agree to the measure of damages applicable to Plaintiff's breach of contract claim against Lim and Filmwest Global Partnership, LLC ("Filmwest"), on which the Court granted summary judgment in favor of Plaintiff. [ECF No. 115; *see* ECF No. 112]. On April 30, 2024, the parties filed a joint letter. [ECF No. 116]. The parties propose dismissing the pending fraud claim against Lim without prejudice. [ECF No. 116]. The parties further advise that they stipulate that the calculation of damages by Magistrate Judge Stein in the Report and Recommendation granting default judgment against Defendant Peter K. Schmidt on Plaintiff's breach of contract claim [ECF No. 103], which the Court adopted in its entirety [ECF No. 110], is applicable to Plaintiff's breach of contract claim against Lim and Filmwest. [ECF No. 116]. The parties request that judgment for the amount stated in the Report and Recommendation be entered on Plaintiff's breach of contract claim against Lim and Filmwest. [ECF No. 116].

Accordingly, IT IS HEREBY ORDERED that the parties shall file, no later than May 9, 2024, a stipulation of voluntary dismissal without prejudice dismissing Plaintiff's fraud claim

against Lim. IT IS FURTHER ORDERED that the parties shall file, by the same date, a joint stipulation of damages as to Plaintiff's breach of contract claim against Lim and Filmwest. The Court will thereafter endorse such stipulations and direct that the Clerk of Court enter judgment and terminate this case.

Any request for extension shall be made by letter filed to ECF no later than 48 hours before the deadline.

SO ORDERED.

Date: May 2, 2024
New York, NY

Mary Kay Vyskocil
MARY KAY VYSKOCIL
United States District Judge